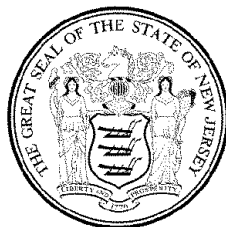

Statutes (N.J.S.A. 45:5B-1 et seq.)
New Jersey State Board
of Cosmetology and Hairstyling
Division of Consumer Affairs
N.J. Department of Law & Public Safety

As of December 2000



New Jersey State Board of

Cosmetology & Hairstyling

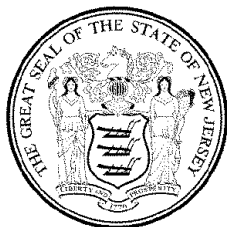
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New Jersey Statutes Annotated

Title 45, Chapter 5B.

Cosmetology and Hairstyling

45:5B-1. Short title

This act shall be known and may be cited as the “Cosmetology and Hairstyling Act of 1984.”

45:5B-2. Legislative findings and declarations

The Legislature finds and declares that it is a valid public purpose:

- a. To establish a single board which shall administer, coordinate and enforce this act and regulations promulgated pursuant to this act relating to the practices of cosmetology, hairstyling, barbering and beauty culture, the premises at which those services are rendered and the schools at which instruction in those practices may be obtained;
- b. To protect those persons of the general public who are direct recipients of the services regulated by this act and registered students receiving instruction at licensed schools of cosmetology and hairstyling from unsafe, fraudulent and deceptive practices, as well as practices which reduce competition;
- c. To maintain and ensure standards of competency and integrity for the occupations of cosmetology and hairstyling; and
- d. To ensure that registered students at cosmetology and hairstyling schools receive thorough and reliable instruction.

45:5B-3. Definitions

As used in this act:

- a. “Barber” means any person who is licensed to engage in any of the practices encompassed in barbering.
- b. “Barbering” means any one or combination of the following practices when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when

done for payment either directly or indirectly or when done without payment for the general public:

- (1) shaving or trimming of the beard, mustache or other facial hair;
 - (2) shampooing, cutting, arranging, relaxing or styling of the hair;
 - (3) singeing or dyeing of the hair;
 - (4) applying cosmetic preparations, antiseptics, tonics, lotions or creams to the hair, scalp, face or neck;
 - (5) massaging, cleansing or stimulating the face, neck or scalp with or without cosmetic preparations, either by hand, mechanical or electrical appliances; or
 - (6) cutting, fitting, coloring or styling of hair-pieces or wigs, to the extent that the services are performed while the wig is being worn by a person.
- c. “Beautician” means any person who is licensed to engage in any of the practices encompassed in beauty culture.
- d. “Beauty culture” means any one or combination of the following practices when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment either directly or indirectly or when done without payment for the general public:
- (1) shampooing, cutting, arranging, dressing, relaxing, curling, permanent waving or styling of the hair;
 - (2) singeing, dyeing, tinting, coloring, bleaching of the hair;
 - (3) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the hair, scalp, face, neck or upper part of the body;
 - (4) massaging, cleansing, or stimulating the face, scalp, neck or upper part of the body, with or without cosmetic preparations either by hand, mechanical or electrical appliances;

- (5) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis;
 - (6) manicuring the fingernails, nail-sculpturing or pedicuring the toenails; or
 - (7) cutting, fitting, coloring or styling of hair-pieces or wigs to the extent that the services are performed while the wig is being worn by a person.
- e. “Board” means New Jersey State Board of Cosmetology and Hairstyling.
- f. “Board of Barber Examiners” means the State Board of Barber Examiners established pursuant to P.L.1938, c. 197 (C. 45:4-27 et seq.).
- g. “Board of Beauty Culture Control” means the Board of Beauty Culture Control established pursuant to Chapter 4A of Title 45 of the Revised Statutes.
- h. “Clinic” means a designated portion of a licensed school in which members of the general public may receive cosmetology or hairstyling services from registered students in exchange for a fee which shall be calculated to recoup only the cost of materials used in the performance of those services.
- i. “Cosmetologist-hairstylist” means any person who is licensed to engage in the practices encompassed in cosmetology and hairstyling.
- j. “Cosmetology and hairstyling” means any one or combination of the following practices when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment either directly or indirectly or when done without payment for the general public:
 - (1) shaving or trimming of the beard, mustache or other facial hair;
 - (2) shampooing, cutting, arranging, dressing, relaxing, curling, permanent waving or styling of the hair;
 - (3) singeing, dyeing, tinting, coloring, bleaching of the hair;

- (4) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the hair, scalp, face or neck;
 - (5) massaging, cleansing or stimulating the face, neck or upper part of the body, with or without cosmetic preparations, either by hand, mechanical or electrical appliances;
 - (6) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis;
 - (7) manicuring the fingernails, nail-sculpturing or pedicuring the toenails;
 - (8) cutting, fitting, coloring or styling of hair-pieces or wigs to the extent that the services are being performed while the wig is being worn by a person; or
 - (9) hairweaving to the extent that the procedure does not involve the replacement of human hair by means of the insertion of any natural or synthetic fiber hair into the scalp.
- k. “Manicurist” means a person who holds a limited license to engage in only the practice of manicuring.
- l. “Manicuring” means any one or combination of the following practices when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment directly or indirectly or when done without payment for the general public:
- (1) manicuring of the fingernails;
 - (2) pedicuring of the toenails;
 - (3) nail sculpturing; or
 - (4) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis.
- m. “Owner” means any person, corporation, firm or partnership who has a financial interest in a school or shop entitling him to participate in the promotion, management and proceeds thereof. It does not include a person whose connection with a

school or shop entitles him only to reasonable salary or wages for services actually rendered.

- n. “Practicing licensee” means any person who holds a license to practice barbering, beauty culture, cosmetology and hairstyling, manicuring or as a skin care specialist.
- o. “Registered student” means a person who is engaged in learning and acquiring a knowledge of any of the practices included in the definition of cosmetology and hairstyling under the direction and supervision of a person duly authorized under this act to teach cosmetology and hairstyling and who is enrolled in a program of instruction at a licensed school of cosmetology and hairstyling, completion of which may render him eligible for licensure pursuant to this act but does not mean a person who is enrolled in a public school vocational program in cosmetology and hairstyling approved by the State Board of Education.
- p. “Registration card” means a document issued by the board to a registered student upon receipt of documentation from a licensed school of cosmetology and hairstyling that the student is enrolled.
- q. “School” means an establishment or place licensed by the board to be maintained for the purpose of teaching cosmetology and hairstyling to registered students.
- r. “Senior student” means a registered student who has successfully completed 600 hours of instruction in a cosmetology and hairstyling program, 150 hours of instruction in a manicuring program or 300 hours of instruction in a skin care specialty program offered at a licensed school of cosmetology and hairstyling or a student enrolled in an approved vocational training program who has completed 600 hours of instruction in a cosmetology and hair styling program, 150 hours of instruction in a manicuring program or 300 hours of instruction in a skin care specialty program.
- s. “Student permit” means a permit issued to a senior student which enables him to practice cosmetology and hairstyling in a school clinic or shop while a registered student at a licensed school of

cosmetology and hairstyling or enrolled in an approved vocational training program.

- t. “Shop” means any fixed establishment or place where one or more persons engage in one or more of the practices included in the definition of cosmetology or hairstyling, barbering, beauty culture, manicuring or skin care specialty.
- u. “Teacher” means any person who is licensed by the board to give instruction or training in the theory or practice of cosmetology and hairstyling.
- v. “Temporary permit” means a permit issued to applicants for licensure awaiting scheduling or results of an examination.
- w. “Manicurist student permit” means a permit issued to a senior student in a manicuring program which enables him to practice manicuring in a school clinic or shop while a registered student at a licensed school of cosmetology and hairstyling or enrolled in an approved vocational program.
- x. “Skin care specialist” means a person who holds a limited license to engage in only the practices included in the definition of skin care specialty.
- y. “Skin care specialty” means any one or combination of the following practices when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for payment either directly or indirectly or when performed without payment for the general public:
 - (1) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the scalp, face or neck;
 - (2) massaging, cleansing or stimulating the face, neck or upper part of the body, with or without cosmetic preparations, either by hand, mechanical or electrical appliances; or
 - (3) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis.

- z. “Skin care specialty student permit” means a permit issued to a senior student in a skin care specialty program which enables him to practice skin care in a school clinic or shop while a registered student at a licensed school of cosmetology and hairstyling or enrolled in an approved vocational program.

45:5B-4. New Jersey state board of cosmetology and hairstyling; members; qualifications

There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the New Jersey State Board of Cosmetology and Hairstyling. The board shall consist of 11 members who are residents of the State, three of whom shall be public members, two appointed pursuant to subsection b. of section 2 of P.L.1971, c. 60 (C. 45:1-2.2) and one additional public member, and one of whom shall be a State executive department member appointed pursuant to subsection c. of section 2 of P.L.1971, c. 60 (C. 45:1- 2.2). Of the remaining seven members, six shall hold practicing licenses issued by the board, by the Board of Barber Examiners or by the Board of Beauty Culture Control and shall have been engaged in the practice of beauty culture, barbering, or cosmetology and hairstyling for at least five years prior to their appointments, but shall not have been engaged in the conduct of or teaching at a licensed school of beauty culture or cosmetology and hairstyling. Three of the practicing members appointed to the initial board created by this act shall hold a license to practice barbering issued by the Board of Barber Examiners. Three of the practicing members appointed to the initial board created by this act shall hold a license issued by the Board of Beauty Culture Control. The remaining one member appointed by the board created by this act shall hold a teacher’s license issued by the Board of Beauty Culture Control or by the board and shall have been engaged in the teaching of beauty culture or cosmetology and hairstyling or shall have been involved in the conduct of a licensed school of beauty culture or school of cosmetology and hairstyling in this State for at least five years prior to the appointment.

45:5B-5. Board; members; appointment; terms; compensation

The Governor shall appoint members to the board with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years, except that of the seven members first appointed who are actively involved in the practice or teaching of cosmetology and hair-styling, three shall serve for terms of three years, two shall serve for terms of two years and two shall serve for a term of one year. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the board shall be filled in the same manner as the original appointment for the unexpired term only. No member of the board may serve more than two successive terms in addition to any unexpired term to which he has been appointed. Members of the board shall be compensated and reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P.L.1977, c. 285 (C. 45:1- 2.5). The board shall annually elect from among its members a chairman and vice chairman. The board shall meet six times per year and may hold additional meetings as necessary to discharge its duties.

45:5B-6. Duties of board

The board shall:

- a. Review the qualifications of applicants for licensure;
- b. Devise examinations for licensure which include practical and written portions;
- c. Administer and grade examinations or employ competent examiners to administer and grade examinations but in no case shall the board permit a person having any affiliation with a licensed school to examine or grade an applicant who has been a registered student at the school with which the examiner has an affiliation;
- d. Issue and renew licenses of any cosmetologist-hairstylist, beautician, barber, manicurist, skin care specialist, teacher, shop, or school;
- e. Issue student permits to senior students, manicuring students and skin care specialty students, which permits shall remain valid during the period that the student is registered at a licensed school or

enrolled in an approved vocational training program;

- f. Issue temporary permits to applicants for licensure who are awaiting scheduling for or results from an examination;
- g. Issue registration cards to registered students;
- h. Suspend, revoke or fail to renew a license and exercise investigative powers pursuant to the provisions of P.L.1978, c. 73 (C. 45:1-14 et seq.);
- i. Appoint and employ an executive director and an assistant executive director subject to the approval of the Attorney General, and other employees as necessary to carry out the provisions of this act;
- j. Determine the duties that the executive director and the assistant executive director shall perform;
- k. File with the Attorney General a petition to remove any executive director or assistant executive director for cause, which petition shall be acted upon by the Attorney General in a manner which he deems appropriate;
- l. Establish fees for initial licensure, permits, renewals and restoration of licenses as well as for duplication of lost licenses pursuant to section 2 of P.L.1974, c. 46 (C. 45:1-3.2);
- m. Maintain records of all practicing licensees and all licensed teachers. Records shall include the latest work address of each licensee, as provided on applications for licensure and renewals thereof;
- n. Maintain a record of all registered students and all persons holding student permits, manicuring student permits and skin care specialty student permits;
- o. Maintain a record of all shops licensed by the board to offer one or more of the services encompassed within the definition of cosmetology and hairstyling;
- p. Maintain a record of all schools licensed by the board to offer courses of instruction or training in the practice and theory of cosmetology and hairstyling to registered students, which courses shall be approved by the board for the awarding of credit for licensure;

- q. Make available for public inspection all records required to be kept pursuant to this section;
- r. Promulgate regulations governing the practice and teaching of cosmetology and hairstyling as are necessary to implement this act and to insure that cosmetology and hairstyling services and instruction in those services are being offered both in a manner which is sanitary and safe and in a manner which is not intended to deceive or mislead the general public;
- s. Promulgate regulations governing the conduct of shops and schools as are necessary to implement this act and to assure that cosmetology and hairstyling services and instruction in those services are being offered both in a manner that is sanitary and safe, and in a manner not intended to deceive or mislead the general public, students of the schools, or organizations awarding financial aid to the students and to clarify or define any term used in the act and to define any activity included in hairstyling and cosmetology and beauty culture;
- t. Review curricula offered by licensed schools in courses of instruction offered to registered students and approve those curricula which offer comprehensive training in cosmetology and hairstyling;
- u. Direct the conduct of inspections or investigations of all licensed shops and schools; and
- v. Direct the conduct of inspections or investigations of any premises from which the board may have reason to believe that cosmetology and hairstyling services are being offered, or that courses of instruction are being offered to registered students.

45:5B-7. Services of cosmetology and hairstyling necessity of license; exceptions

No person shall render any of the services encompassed within the definition of cosmetology and hairstyling without first having secured a license from the board which permits the offering of that service, except for the following persons when acting within the scope of their profession or occupation:

- a. Persons authorized by the laws of this State to practice medicine and surgery, dentistry, chiropractic and acupuncture;
- b. Registered nurses, licensed practical nurses, nurses' aides, physical therapists and physical therapy assistants;
- c. Commissioned medical officers of the United States Armed Forces Hospital Services;
- d. Persons employed to render cosmetology or hair-styling services in the course of and incidental to the business of employers engaged in the theatrical, radio, television or motion picture production industries, modeling or photography;
- e. Persons employed to demonstrate, recommend or administer cosmetic preparations, lotions, creams, makeup or perfume intended for home use, for the purposes of effecting retail sales, if those persons neither accept payment from the consumer for that demonstration nor make the demonstration contingent upon the purchase of any product or service; or
- f. Senior students holding a student permit; provided that those services are rendered in a school clinic or licensed shop during hours that the student does not have scheduled classes.

45:5B-8. Service rendered in unlicensed shop or school; prohibition; exceptions

No person shall offer or render any of the services encompassed within the definition of cosmetology and hair-styling in a place which is not licensed as a shop or school, except that a practicing licensee, duly licensed pursuant to this act, may render the services which he is licensed to offer:

- a. Upon patients in hospitals, nursing homes, and other licensed health care facilities;
- b. Upon inmates and residents of institutions of the Department of Corrections or the Department of Human Services;
- c. Upon an invalid or handicapped person in the person's place of residence, if the practicing licensee is sponsored by a licensed shop and a record of those services is maintained by that shop;

- d. Upon performers or models, prior to, in anticipation of or during a performance; or
- e. Upon potential consumers of cosmetic preparations, lotions, creams, makeup or perfume which are intended for home use if the application of the product is made for the purposes of effecting a retail sale and the person neither accepts payment from the consumer for the service, nor makes the provision of the service contingent upon the purchase of any product or service.

45:5B-9. Shop license; necessity

No person, firm, corporation, partnership or other legal entity shall operate, maintain or use premises for the offering of or rendering of any one or more of the services encompassed in the definition of cosmetology and hairstyling without first having secured a shop license from the board.

45:5B-10. Schools of cosmetology and hairstyling; license

No person, firm, corporation, partnership or other legal entity shall operate, maintain or use premises at which courses of instruction in cosmetology and hairstyling services are offered to registered students without first having secured a school license from the board. Nothing herein shall prohibit the offering of educational programs and courses in cosmetology and hairstyling to practicing licensees or teachers at unlicensed premises. However, no course offered at unlicensed premises shall be recognized by the board in satisfaction of licensure eligibility requirements. All educational programs and courses offered at unlicensed premises shall be conducted by practicing licensees.

45:5B-11. Employment of practicing licensee by licensed shop

A shop licensed by the board shall employ at least one experienced practicing licensee to generally oversee the management of the shop. The practicing licensee shall:

- a. Hold a beautician, barber or cosmetologist - hairstylist license and have three years of experience as a beautician, barber or cosmetologist-hairstylist; or

- b. Hold a beautician or cosmetologist-hairstylist license and have been issued a manager-operator license by the Board of Beauty Culture Control; or
- c. If the shop performs only manicuring services, hold a manicurist license and have three years of experience as a manicurist; or
- d. If a shop performs only skin care specialty services, hold a skin care specialty license and have three years of experience as a skin care specialist.

A shop which satisfies the requirements of this section by employing a practicing licensee who holds a barber license is precluded from employing senior students unless the shop also employs a practicing licensee who holds either a license as a beautician or a cosmetologist-hairstylist and has at least three years of experience as a beautician or a cosmetologist-hairstylist.

45:5B-12. Unlawful practices for licensee

In addition to any practice declared unlawful pursuant to P.L.1978, c. 73 (C. 45:1-14 et seq.), it shall be unlawful for any person to engage in the following practices:

- a. Advertise in a manner which would tend to mislead consumers of cosmetology and hairstyling services;
- b. Advertise, practice or attempt to practice under another's name or trade name;
- c. Continue to practice while knowingly having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services;
- d. Engage in fraudulent practices for the purpose of securing financial aid from any institution or agency offering that aid to students of cosmetology and hairstyling;
- e. Aid, abet, or knowingly permit a person not licensed pursuant to this act to render any of the services encompassed within the definition of cosmetology and hairstyling;
- f. Fail to display a practicing license at any place at which the licensee renders services; or

- g. Engage in one or more of the practices included in the definition of cosmetology and hairstyling in premises not licensed as a shop or a school, except as provided in section 8 of this act.¹

¹ Section 45:5B-8.

45:5B-12.1. Representation or use of title or designation without corresponding license prohibited

- a. No person shall represent himself or hold himself out as engaging in the practices encompassed in cosmetology and hairstyling, or manicuring or as a skin care specialist unless licensed under this act.
- b. No person shall use the title or designation of “cosmetologist- hairstylist,” “manicurist,” or “skin care specialist” or any other title or designation suggesting that the person is a cosmetologist -hairstylist, manicurist or skin care specialist unless licensed under this act, and unless the title or designation corresponds to the license held by the person pursuant to this act.

45:5B-13. Unlawful practices for licensed shop or shop owner

In addition to any practice declared unlawful pursuant to P.L.1978, c. 73 (C. 45:1-14 et seq.), it shall be unlawful for a licensed shop or shop owner to engage in the following practices:

- a. Advertise in a manner which would tend to mislead consumers of cosmetology and hairstyling services;
- b. Advertise, operate a shop or attempt to operate a shop under another’s name or trademark;
- c. Knowingly permit any practicing licensee to render services when that licensee has an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services;
- d. Aid, abet or permit a person not licensed pursuant to this act to render any of the services encompassed within the definition of cosmetology and hairstyling;

- e. Maintain a shop in a manner which is unsafe or unsanitary;
- f. Fail to display, in a conspicuous place, its shop license; or
- g. Fail to employ one person with the required experience as provided in section 11 of this act.¹

¹ Section 45:5B-11.

45:5B-14. Unlawful practices for licensed school or school owner

In addition to any practice declared unlawful pursuant to P.L.1978, c. 73 (C. 45:1-14 et seq.), it shall be unlawful for a licensed school or school owner to engage in the following practices:

- a. Advertise in a manner which would tend to mislead potential students or consumers of cosmetology and hairstyling services offered within the school's clinic;
- b. Advertise, operate a school or attempt to open a school under another's name or trade name;
- c. Permit students to practice upon each other or members of the public while knowingly having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of teaching or rendering cosmetology and hairstyling services;
- d. Permit teachers to demonstrate cosmetology and hairstyling services on students while knowingly having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of teaching or rendering cosmetology and hairstyling services;
- e. Engage in fraudulent practices for the purpose of securing financial aid from any institution or agency offering aid to students of cosmetology or hairstyling;
- f. Aid, abet, or permit a person not licensed pursuant to this act to teach any of the services encompassed within the definition of cosmetology and hairstyling to registered students;
- g. Maintain any premises from which the practice of cosmetology and hairstyling is offered, or the

teaching of cosmetology and hairstyling is offered in a manner which is unsanitary or unsafe;

- h. Fail to display, in a conspicuous place, its school license;
- i. Fail to maintain accurate records of attendance by any registered student for at least five years after the student's enrollment ends, which records shall be subject to inspection by the board;
- j. Fail to notify the board on forms it may prescribe of any student who obtains a leave of absence, fails to attend classes for a period of more than 90 consecutive days or withdraws from school; or
- k. Fail to maintain the required bond during all periods of operation.

45:5B-15. Unlawful practices for licensed teacher

In addition to any practice declared unlawful pursuant to P.L.1978, c. 73 (C. 45:1-14 et seq.), it shall be unlawful for a licensed teacher to engage in the following practices:

- a. Advertise in a manner which would tend to mislead potential students or consumers of cosmetology and hairstyling services offered in the school clinic;
- b. Advertise, teach or attempt to open a school under another person's name;
- c. Knowingly permit students to practice upon each other or members of the public while having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services;
- d. Demonstrate cosmetology and hairstyling services on students while knowingly having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services;
- e. Engage in fraudulent practices for the purpose of securing financial aid from any institution or agency offering aid to students of cosmetology and hairstyling;

- f. Aid, abet or permit a person not licensed pursuant to this act to teach any of the services included in the definition of cosmetology and hairstyling to registered students;
- g. Teach cosmetology and hairstyling in a manner which is unsatisfactory or unsafe;
- h. Fail to display in a conspicuous place a valid teacher's license at the school; or
- i. Fail to accurately and truthfully record attendance by registered students.

45:5B-16. Application for license to practice; qualifications

Each applicant for initial licensure as a practicing licensee shall submit to the board satisfactory evidence, on forms as the board requires, that he:

- a. Is of good moral character;
- b. Is at least 17 years of age; and
- c. Does not have any communicable, contagious or infectious disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services.

45:5B-17. License applicant without barber or beauty culture license; requirements

An applicant seeking licensure as a cosmetologist-hairstylist, who does not at the time of that application hold a license to practice barbering issued by the Board of Barber Examiners or the board or a license to practice beauty culture issued by the Board of Beauty Culture Control or the board, shall:

- a. Demonstrate successful completion of high school or its equivalent; and
- b. Demonstrate successful completion of a course in cosmetology and hairstyling consisting of:
 - (1) 1,200 hours of instruction at a school of cosmetology and hairstyling licensed in this State, or
 - (2) A program in a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling, or

- (3) 1,200 hours of instruction at a school of cosmetology and hairstyling, beauty culture or barbering licensed in another state or a foreign country which, in the opinion of the board, offers curricula which is substantially similar to that offered at licensed schools within the State; and

- c. Take and pass an examination conducted by the board, as provided by this act.

45:5B-18. License applicant with beauty culture license; examination

Any applicant holding a license to practice beauty culture issued by the Board of Beauty Culture Control or by the board, who is seeking licensure as a cosmetologist-hairstylist shall be given two opportunities within seven years of the effective date of this act to take and pass an examination conducted by the board, which shall demonstrate to the board's satisfaction that the applicant has attained proficiency in shaving, without undertaking additional training. If the applicant does not pass the examination on either one of the two examination opportunities, the applicant may not take the examination again until the applicant can demonstrate successful completion of a course in shaving, the length of which is to be established by the board pursuant to regulation, and which is offered at:

- a. A school of cosmetology and hairstyling in this State; or
- b. A public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling; or
- c. A school of cosmetology and hairstyling, beauty culture or barbering licensed in another state or foreign county, which, in the opinion of the board, offers curricula which are substantially similar to that offered at licensed schools within this State.

45:5B-19. License applicant with barber license; examination

An applicant holding a license to practice barbering issued by the Board of Barber Examiners or the board, who is seeking licensure as a cosmetologist-hairstylist shall be given two opportunities within seven years of the ef-

fective date of this act to take and pass an examination conducted by the board, which shall demonstrate to the board's satisfaction that the applicant has attained proficiency in services included within the definition of beauty culture which are not encompassed within the definition of barbering, without undertaking additional training. If the applicant does not pass that examination on either one of the two examination opportunities, the applicant may not take the examination again until the applicant can demonstrate successful completion of a 500-hour course in beauty culture services offered at:

- a. A school of cosmetology and hairstyling in this State; or
- b. A public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling; or
- c. A school of cosmetology and hairstyling or beauty culture licensed in another state or foreign country, which, in the opinion of the board, offers curricula which are substantially similar to that offered at licensed schools within this State.

45:5B-20. Applicant for initial licensure as beautician; requirements

An applicant seeking initial licensure as a beautician, who does not hold a license to practice beauty culture issued by the Board of Beauty Culture Control, shall:

- a. Demonstrate successful completion of high school or its equivalent;
- b. Demonstrate that he was a registered student at a school of cosmetology and hairstyling, or beauty culture in this State on or before the effective date of this act or enrolled in an approved vocational course of instruction in beauty culture on or before the effective date of this act;
- c. Demonstrate successful completion of a 1,200 hour course of instruction in beauty culture within two years of the effective date of this act at a school of cosmetology and hairstyling licensed in this State, or a program at a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling, or beauty culture; and

- d. Take and pass an examination conducted by the board, as provided by this act.

45:5B-21. Applicant for initial licensure as barber; requirements

An applicant seeking initial licensure as a barber who does not hold a license to practice barbering issued by the Board of Barber Examiners shall:

- a. Demonstrate successful completion of eighth grade or its equivalent;
- b. Demonstrate that he held an apprentice registration certificate issued by the Board of Barber Examiners on or before the effective date of this act and has successfully completed that apprenticeship within two years of the effective date of this act or was enrolled in a public or private school vocational program in barbering on December 4, 1985, received a certificate as a registered apprentice barber from the New Jersey Board of Cosmetology and Hairstyling pursuant to section 6 of P.L.1987, c. 92 (C. 45:5B-21.1) upon completion of the program and has successfully completed an apprenticeship of 18 months' duration within two years of completing the vocational program in barbering; and
- c. Take and pass an examination conducted by the board as provided by this act.

45:5B-21.1. Registered apprentice barber certificate; qualifications; length of validity; scope of practice

The New Jersey Board of Cosmetology and Hairstyling shall issue a certificate as a registered apprentice barber to any person who was enrolled in a public or private school vocational program in barbering on December 4, 1985 upon the successful completion of the vocational program and payment of a fee as required by the board. An apprentice certificate shall be valid for 18 months from the date of issue and may be renewed for an additional six months. An apprentice shall not independently practice barbering, but may, as an apprentice, practice barbering under the immediate supervision of a licensed barber.

45:5B-22. Applicant for initial licensure as manicurist; requirements

An applicant seeking initial licensure as a manicurist, who does not hold a license to practice manicuring issued by the Board of Beauty Culture Control, must:

- a. Demonstrate successful completion of high school or its equivalent; and
- b. Demonstrate successful completion of a 300 hour course of instruction in manicuring at:
 - (1) a school of cosmetology and hairstyling licensed in this State; or
 - (2) a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling; or
 - (3) a school of cosmetology and hairstyling, beauty culture or barbering licensed in another state or foreign country, which, in the opinion of the board, offers curricula which is substantially similar to that offered at licensed schools within this State; and
- c. Take and pass an examination conducted by the board, as provided by this act.

45:5B-22.1. Applicant for initial licensure as skin care specialist; requirements

An applicant seeking initial licensure as a skin care specialist shall:

- a. Demonstrate successful completion of high school or its equivalent; and
- b. Demonstrate successful completion of a 600 hour course of instruction in the practice of a skin care specialty at
 - (1) a school of cosmetology and hairstyling licensed in this State; or
 - (2) a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling; or
 - (3) a school of cosmetology and hairstyling, beauty culture or barbering licensed in another state or foreign country which, in the opinion of the board, offers curricula which

is substantially similar to that offered at licensed schools within this State; and

- c. Take and pass an examination conducted by the board, as provided by P.L.1984, c. 205 (C. 45:5B-1 et seq.).

45:5B-23. Applicant for license to teach cosmetology and hairstyling; requirements

An applicant for a license to teach cosmetology and hairstyling who does not hold a license to teach beauty culture issued by the Board of Beauty Culture Control shall submit to the board satisfactory evidence that he:

- a. Is of good moral character;
- b. Is at least 18 years of age;
- c. Does not have a communicable, contagious or infectious disease;
- d. Has successfully completed high school or its equivalent;
- e. Holds a cosmetologist-hairstylist license issued by the board or an operator's license issued by the Board of Beauty Culture Control prior to the effective date of this act or a beautician's license issued within two years of the effective date of this act;
- f. Has successfully completed a teacher training course of 500 hours consisting of practice and theory of teaching conducted at a licensed school of cosmetology and hairstyling in this State or a school of cosmetology and hairstyling or beauty culture licensed in another state or foreign country which, in the opinion of the board, offers a curriculum which is substantially similar to that offered at licensed schools within this State;
- g. Has successfully completed a 30-hour teaching methods course conducted by a college approved by the State Board of Higher Education and recognized by the board or a substantially equivalent teaching methods course conducted by a college in another state which is approved by the higher education authorities of that state and recognized by the board;

- h. Has attained six months' employment experience in a licensed shop within this State which may be obtained prior to, at the same time as, or subsequent to the period during which the applicant is attending the teacher training course offered by a licensed school of cosmetology and hairstyling of this State or has attained six months' licensed employment in another state or foreign country; and
- i. Has successfully completed an examination conducted by the board.

45:5B-24. Applicant for licensure to teach cosmetology and hairstyling who holds license to teach beauty culture; requirements; courses in shaving; examination

An applicant holding a license to teach beauty culture issued by the Board of Beauty Culture Control, who is seeking licensure as a teacher of cosmetology and hairstyling, shall successfully complete a course in shaving within one year of the effective date of this act. The course shall be administered by the board and conducted by an individual it designates, who has held a license issued by the Board of Barber Examiners for at least five years immediately preceding the enactment of this act. The applicant shall pay the cost of the course, which may be determined by the board.

The board, in its discretion, may discontinue conducting courses in shaving at such time that it determines there are sufficient numbers of licensed teachers of cosmetology and hairstyling to conduct the course at licensed schools. Thereafter, the board may accept proof that an applicant has successfully completed a course of the required length, as established pursuant to regulation by the board. A licensed teacher of cosmetology and hairstyling shall conduct the course at:

- a. A school of cosmetology and hairstyling in this State;
- b. A public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling; or
- c. A school of cosmetology and hairstyling, beauty culture or barbering licensed in another state or foreign country, which, in the opinion of the board,

offers curricula which are substantially similar to that offered at licensed schools within this State.

Upon submission of proof of completion of that course, an applicant shall take and is required to pass an examination. Failure to successfully complete the course and take and pass the examination in shaving within one year of the effective date of this act may be the basis for the revocation or refusal to issue or renew a teacher's license issued by the Board of Beauty Culture Control.

45:5B-25. Student permit

To be eligible to obtain a student permit, a manicurist student permit or a skin care specialty student permit, an applicant shall submit to the board satisfactory evidence that he:

- a. Is a registered student in a course of instruction in cosmetology and hairstyling or manicuring or skin care, as appropriate, or is enrolled in a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling or manicuring or skin care, as appropriate, and has completed 600 hours of a cosmetology and hairstyling course, 100 hours of a manicuring course or 300 hours of the skin care specialty course; and
- b. Does not have a communicable, contagious or infectious disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services.

All permits shall remain valid only during the period that the student is registered at a licensed school of cosmetology and hairstyling or enrolled in an approved vocational program and shall expire upon a student's graduation, withdrawal or leave of absence from the school or program for more than 90 consecutive days.

45:5B-26. Application fee; examination; temporary permit

Upon submitting satisfactory evidence of eligibility for any practicing license, an applicant shall submit to the board a fee as required by the board. The applicant then shall be scheduled to sit for the examination conducted by the board in the practice in which he is seeking a practicing license. Upon scheduling, he shall be issued a temporary permit to

engage in the practice for which the applicant is seeking a license. The permit shall remain valid for a period of no more than 120 days and shall expire upon receipt of a newly issued license by the licensee. Only one temporary permit shall be issued to an applicant. No temporary permit shall be issued to applicants awaiting scheduling of and results from the teacher examination.

45:5B-27. Conduct of examinations

All examinations conducted by the board pursuant to this act shall consist of practical and written portions and may be administered in English, and in the case of practicing licensees, in Spanish or with the aid of a translator, if the board, in its discretion, deems that aid to be warranted.

45:5B-28. Applicants in possession of license from other state or foreign country; services within definition of cosmetology and hairstyling; eligibility for licensure

Applicants possessing a license to render services in another state or a foreign country, which services are included within the definition of cosmetology and hairstyling as set forth in this act, may be issued a license without examination; provided, however, that the state or country has established eligibility criteria substantially similar to those established in this State, and the applicant has paid a fee as required by the board and submitted certification from the licensing jurisdiction. A person possessing a license to practice cosmetology and hairstyling services issued by a licensing authority from another state or a foreign country which has established eligibility criteria with respect to cosmetology and hairstyling training which are, in the opinion of the board, less stringent than those required in this State may, nevertheless, be eligible for licensure without examination, if he can present satisfactory evidence of prior practical experience of three years working in a licensed shop.

45:5B-29. Applicants in possession of license from other state or foreign country; services within definition of beauty culture; eligibility for licensure

- a. Applicants possessing a license to render services in another state or foreign country, which services are included within the definition of beauty cul-

ture pursuant to this act, may be issued a license to practice cosmetology and hairstyling in accordance with the provisions of section 18 of this act,¹ if that jurisdiction has established eligibility criteria substantially similar to those established by the Board of Beauty Culture Control and in effect on the date of enactment of this act. The applicant shall pay a fee as required by the board and submit certification from the licensing jurisdiction. An applicant possessing a license to practice beauty culture services issued by a licensing authority from another state or a foreign country which has established eligibility criteria with respect to beauty culture training which are, in the opinion of the board, less stringent than those required by the Board of Beauty Culture Control on the date of enactment of this act, may, nevertheless, be eligible for licensure as a cosmetologist-hairstylist in accordance with the provisions of section 18 of this act if the applicant can present satisfactory evidence of prior practical experience of three years working in a licensed shop.

- b. Applicants possessing a license to render services in another state or foreign country which was issued on or before December 4, 1985, which services are included within the definition of beauty culture pursuant to P.L.1984, c. 205 (C. 45:5B-1 et seq.), may be issued a license to practice beauty culture if that jurisdiction had established eligibility criteria substantially similar to those established by the Board of Beauty Culture Control and in effect on the date of enactment of P.L.1984, c. 205 (C. 45:5B-1 et seq.). The applicant shall pay a fee as required by the board and submit certification from the licensing jurisdiction. An applicant possessing a license to practice beauty culture services issued by a licensing authority from another state or foreign country which was issued on or before December 4, 1985 which had established eligibility criteria with respect to beauty culture training which are, in the opinion of the board, less stringent than those required by the Board of Beauty Culture Control on the date of enactment of P.L.1984, c. 205 (C. 45:5B-1 et seq.), may, nevertheless, be eligible for licensure to practice beauty culture if the applicant can present satisfactory

evidence of prior practical experience of three years working in a licensed shop.

¹ Section 45:5B-18

45:5B-30. Applicants in possession of license from other state or foreign country; services within definition of barbering; eligibility for licensure

- a. Applicants possessing a license to render services in another state or a foreign country, which services are included within the definition of barbering pursuant to this act, may be issued a license to practice cosmetology and hairstyling in accordance with the provisions of section 19 of this act,¹ if that jurisdiction has established eligibility criteria substantially similar to those established by the Board of Barber Examiners and in effect on the date of enactment of this act. The applicant shall pay a fee as required by the board and submit certification from the licensing jurisdiction.

An applicant possessing a license to practice barbering services issued by a licensing authority from another state or a foreign country which has established eligibility criteria which are, in the opinion of the board, less stringent than those required by the Board of Barber Examiners on the date of enactment of this act, may, nevertheless, be eligible for licensure as a cosmetologist -hairstylist in accordance with the provisions of section 19 of this act, if the applicant can present satisfactory evidence of prior practical experience of three years working in a licensed shop.

- b. Applicants possessing a license to render services in another state or foreign country which was issued on or before December 4, 1985, which services are included within the definition of barbering pursuant to P.L.1984, c. 205 (C. 45:5B-1 et seq.), may be issued a license to practice barbering if that jurisdiction had established eligibility criteria substantially similar to those established by the Board of Barber Examiners and in effect on the date of enactment of P.L.1984, c. 205 (C. 45:5B-1 et seq.). The applicant shall pay a fee as required by the board and submit certification

from the licensing jurisdiction. An applicant possessing a license to practice barbering services issued by a licensing authority from another state or foreign country which was issued on or before December 4, 1985 which had established eligibility criteria with respect to barber training which are, in the opinion of the board, less stringent than those required by the Board of Barber Examiners on the date of enactment of P.L.1984, c. 205 (C. 45:5B-1 et seq.), may, nevertheless, be eligible for licensure as a barber if the applicant can present satisfactory evidence of prior practical experience of three years working in a licensed shop.

¹ Section 45:5B-19.

45:5B-31. Shop owners; application; inspection; fees; employment of practicing licensee

- a. A person, corporation, firm or partnership intending to open a shop shall:
 - (1) Make application to the board on forms as it may require demonstrating that the physical premises and the operation of the shop will meet minimum criteria as established by the board;
 - (2) Permit an inspection of the premises;
 - (3) Pay a fee as may be required by the board;
 - (4) Employ a practicing licensee with the required experience pursuant to section 11 of P.L.1984, c. 205 (C. 45:5B-11).
- b. Nothing contained in P.L.1984, c. 205 (C. 45:5B-1 et seq.) shall be construed to preclude a person, corporation, firm or partnership from obtaining a shop license for a shop which offers only manicuring services as enumerated in subsection l. of section 3 of P.L.1984, c. 205 (C. 45:5B-3); provided they comply with the requirements of subsection a. of this section. The minimum criteria established by the board by regulation for such a shop shall be appropriate to the practice offered by the shop, without regard to the practices not offered by the shop.

- c. Nothing contained in P.L.1984, c. 205 (C. 45:5B-1 et seq.) shall be construed to preclude a person, corporation, firm or partnership from obtaining a shop license for a shop which offers only skin care specialty services as enumerated in subsection y. of section 3 of P.L.1984, c. 205 (C. 45:5B-3); provided they comply with the requirements of subsection a. of this section. The minimum criteria established by the board by regulation for such a shop shall be appropriate to the practice offered by the shop, without regard to the practices not offered by the shop.

45:5B-32. Application to open school; inspection; bond; fee

A person, corporation, firm or partnership intending to open a school shall:

- a. Make application to the board on forms as it may require, demonstrating the physical premises and the operation of the school will meet minimum criteria as established by the board;
- b. Permit an inspection of the premises;
- c. Post a bond in favor of the State in an amount which shall be determined on the basis of the school's enrollment, in accordance with regulations provided by the board, except in no case shall the bond posted by a school be in an amount less than \$10,000.00; and
- d. Pay a fee as required by the board.

45:5B-33. Bond for licensed schools; grievance against school; initiation of action on bond

A person, partnership, corporation or agency, department or political subdivision of State government, including the board, may initiate an action on the bond required pursuant to section 32 of this act,¹ if the person, partnership, corporation or agency, department, or political subdivision of State government is aggrieved, damaged or injured by any misconduct or violation for which the licensed school is held responsible.

¹ Section 45:5B-32.

45:5B-34. Expiration of licenses

All practicing licenses and teachers' licenses issued shall automatically expire on September 30 of the next even-numbered year following the date of license issuance. Shop and school licenses shall automatically expire on July 31 of the next even-numbered year following the date of license issuance.

45:5B-35. Renewal of licenses

Any practicing license issued by the Board of Cosmetology and Hairstyling, the Board of Beauty Culture Control or the Board of Barber Examiners may be renewable biennially if the expired licenses are renewed within six months following expiration. Applications shall be submitted to the board and accompanied by the fee to be determined by the board. Applications for renewal submitted more than six months after the expiration of a license shall be accompanied by a restoration fee to be determined by the board. Applicants seeking restoration of a license more than five years after the license has expired shall be required to make application for initial licensure. Shop and school licenses shall be renewed within 90 days following expiration. Applicants for renewal of school licenses shall provide satisfactory evidence that a bond required pursuant to section 32 of this act ¹ has been secured and shall remain valid through the next licensing period. No shop or school license may be restored after 90 days and an application for initial licensure shall be submitted.

¹ Section 45:5B-32.

45:5B-35.1. Effects of act on licenses issued by board of beauty culture control and board of barber examiners

The provisions of P.L.1984, c. 205 (C. 45:5B-1 et seq.) shall not affect the validity of any license issued by the Board of Beauty Culture Control or the Board of Barber Examiners prior to the effective date of P.L.1984, c. 205 (C. 45:5B-1 et seq.), however, a person holding a license issued by either board is subject to the provisions of P.L.1984, c. 205 (C. 45:5B-1 et seq.).

45:5B-36. Change of location or ownership for shops or schools

A shop or school owner shall notify the board prior to undertaking a change of location or undergoing a change

of ownership. The shop or school shall submit to the board an initial application for licensure. If a change of ownership results from the death or disability of a principal shareholder in a corporation, or partner in a partnership which holds a shop or school license, the new owner shall notify the board within six months after the change has been effected. For purposes of this section, a change of ownership shall be deemed to have occurred if more than 50% of the outstanding stock or other financial interest is transferred.

45:5B-37. Lawful sales or services; inapplicability of law; regulations to prevent health hazards

Nothing in this act shall be construed to preclude the lawful sale of merchandise or the provision of services related to the beautification of the body or the enhancement of personal appearance, which are not enumerated in the definition of cosmetology and hairstyling pursuant to section 3 of this act,¹ from being undertaken within a licensed shop or school. To the extent that the board determines that certain ancillary beautification services pose a health hazard to the public, it may adopt regulations prohibiting the services, placing restrictions on the manner in which the services are offered or designating appropriate training levels which those offering the services shall have to attain.

¹ Section 45:5B-3.

45:5B-38. State board of education or local board of education; right to establish courses and standards

Nothing in this act shall be construed to limit in any way the right of the State Board of Education or any local board of education to establish and operate courses in cosmetology and hairstyling, to employ teachers, to determine the standards for teaching and the qualifications of teachers, to determine courses of study, to determine the standards for the admission, progress, certification and graduation of students, to determine any and all standards and rules as to location, supplies, equipment and anything whatsoever pertaining to the establishment, operation and maintenance of a course in cosmetology and hairstyling operated by a public school. Nothing in this act shall be interpreted to give any person or agency other than the State Board of Education and the local boards of education the right to prescribe any requirement of any kind whatsoever for courses of cosmetology and hairstyling in public schools or for teachers or pupils in school courses.

New Jersey Statutes Annotated

Title 45, Chapter 1.

Uniform Enforcement Act

45:1-1. Persons entitled to practice, etc.
under former laws unaffected

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

45:1-2. Repealed by L.1971, c.60, § 5, eff.
March 25, 1971

45:1-2.1. Professional boards and commissions;
application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners,

the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, and the State Board of Public Movers and Warehousemen.¹

¹ Abolition of State Board of Public Movers and Warehousemen and transfer of functions, powers and duties to the Division of Consumer Affairs. See Reorganization Plan No. 008-1998, set out under § 45:14D-4.

45:1-2.2. Appointment of members by governor; public members; member from department in executive branch; quorum; vote necessary for action

- a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.
- b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: The New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family

Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

- c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C. 45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or

position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

- d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

45:1-2.3. Qualifications; rights and duties

Such additional members:

- a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and
- b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

45:1-2.4. Effect of act on term of member in office

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

45:1-2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms of employment; offices and meeting places

With respect to the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

- a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according

to rules and regulations promulgated by the Attorney General.

- b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.
- c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.
- d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

45:1-2.6. Inapplicability of act to rights under civil service or any pension law or retirement system

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service,¹ or any pension law or retirement system.

¹Now title 11A.

45:1-3. Expenses of boards paid from income; surplus paid to state treasurer; accounts

Each member of the boards mentioned in section 45:1-2¹ of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as

shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and expenditures, which accounts shall be subject to audit by the state comptroller.

¹Repealed; see, now, §§ 45:1-2.1, 45:1-2.2.

45:1-3.1. Application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State

Real Estate Appraiser Board, and the State Board of Social Work Examiners.

45:1-3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act¹ may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C. 52:14B-1).

Any board’s or commission’s charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

¹Section 45:1-3.1.

45:1-3.3. Administrative fees charged by boards; modification

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). For purposes of this section, “administrative fees” are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2¹ of this title, whether or not a member thereof,

shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

¹Repealed. See, now, §§ 45:1-2.1, 45:1-2.2.

45:1-5,

45:1-6. Repealed by L.1979, c.432, § 4, eff.
Feb. 14, 1980

45:1-7. Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

45:1-7.1. Application to holders of professional or occupational licenses

- a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c.403 (C.45:1-7.2 et al.) shall apply to every holder of a professional or

occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C.45:1-15), who seeks renewal of that license or certificate.

- b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.
- c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.
- d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.
- e. A board specified in section 2 of P.L. 1978, c.73 (C. 45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expira-

tion of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

45:1-7.2. Reinstatement

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;
- b. Payment of a reinstatement fee;
- c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and
- d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

45:1-7.3. Renewal applications

- a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.
- b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable.

45:1-8. Contractors; application of § 45:1-9

The provisions of this act apply to the following classes of contractors:

- a. Tree experts, certified pursuant to P.L.1940, c.100 (C. 13:1-28 et seq.¹);
- b. Home repair contractors, licensed pursuant to P.L.1960, c.41 (C. 17:16C-62 et seq.);
- c. Electrical contractors, licensed pursuant to P.L.1962, c.162 (C. 45:5A-1 et seq.);
- d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);
- e. Well drillers, licensed pursuant to P.L.1947, c.377 (C. 58:4A-5 et seq.); and
- f. Any class of contractors who hereafter are licensed by the State.

¹Renumbered C. 45:15C-1 to 45:15C-10.

45:1-9. Indication of license or certificate number on contracts, bids and advertisements

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

45:1-10. Disclosure of laboratory payments on bills to patients and third party payors

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

45:1-10.1. Claims for third party payment; licensed health care professional; responsibility for filing

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim

forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

- a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).
- b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.
 - (1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.

- (2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discretion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.
- c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).
- d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of \$250 for each violation plus \$50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to “the penalty enforcement law,” N.J.S.2A:58-1 et seq.

45:1-11. Violations; penalty

Any person violating this act shall be guilty of a misdemeanor.

**45:1-12. Podiatrist, optometrist or psychologist or
professional service corporation;
charge for completion of claim form
for health insurance;
fine; collection and enforcement**

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

45:1-13. Repealed by L.1999, c.403, § 12,
eff. Jan. 18, 2000

45:1-14. Legislative findings and declarations;
liberal
construction of act

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

45:1-15. Boards and professions or occupations regulated by or through such boards; application of act

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of

Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech-Language Pathology Advisory Committee.

45:1-15.1. Rules and regulations

Consistent with their enabling acts, P.L.1978, c.73 (C.45:1-14 et seq.) and the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the boards and others set forth in section 2 of P.L.1978, c.73 (C.45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

“Board” means any professional or occupational licensing board designated in section 2 of this act.¹

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

¹Section 45:1-15.

45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

- a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c.410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.
- b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regula-

tion affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.

- c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

45:1-18. Investigative powers of boards, director or attorney general

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

- a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;
- b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;
- c. Inspect any premises from which a licensed profession or occupation is conducted;

- d. Examine any goods, ware or item used in the rendition of any professional or occupational service;
- e. Examine any record, book, document, account or paper maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation;
- f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

45:1-19. Failure or refusal to file statement or report, refusal of access to premises or failure to obey subpoena; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

45:1-20. Compelling testimony or production
of book, paper or document; immu-
nity from prosecution

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

45:1-21. Grounds for refusal to admit to
examination or denial, suspension or
revocation of any certificate, regis-
tration or license; definitions

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license.

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
- d. Has engaged in repeated acts of negligence, malpractice or incompetence;

- e. Has engaged in professional or occupational misconduct as may be determined by the board;
- f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
- l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;
- m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause,

or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;

- n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
- o. Advertised fraudulently in any manner.

For purposes of this act:

“Completed application” means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c. 421 (C.13:1D-101), for the class or category of permit for which application is made.

“Permit” has the same meaning as defined in section 1 of P.L.1991, c. 421 (C.13:1D-101).

45:1-21.1. Annual summary of compliance information and attendance at continuing education seminars; costs; information deemed public records

- a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c.418 (C. 13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c.418 (C. 13:1D-110) regarding compliance with the department’s requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c.419 (C. 13:1D-117).
- b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c.46 (C. 45:1-3.2).
- c. Information required to be compiled by a board pursuant to this section, shall be deemed to be

public records subject to the requirements of P.L.1963, c.73 (C. 47:1A-1 et seq.).

**45:1-21.2. Suspension of certain licenses;
hearing**

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

**45:1-22. Additional or alternative penalties to
revocation, suspension or refusal to
renew; temporary order suspending
or limiting license; subpoena**

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

- a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;
- b. Assess civil penalties in accordance with this act;
- c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;
- d. Order any person found to have violated any provision of an act or regulation administered by such

board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;

- e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such

proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

45:1-24. Failure to comply with order of board directing payment of penalties or restoration of moneys or property; enforcement

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to the Penalty Enforcement Act, (N.J.S. 2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the pur-

pose of bringing such person before the court to satisfy any order entered.

45:1-25. Violations; civil penalty; action to collect or enforce

Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

- (1) an administrative or court order has been entered in a prior, separate and independent proceeding;
 - (2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or
 - (3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.
- b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to “the penalty enforcement law” (N.J.S.A. 2A:58-1 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant’s arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action com-

menced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.

- c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

45:1-26. Repeal of inconsistent acts and parts of acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

45:1-27. Severability

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.